

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 27, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LORENZO ELIAS MENDEZ,

Defendant.

No. 1:18-CR-02037-SAB-1

**ORDER DENYING MOTION TO  
ALTER OR AMEND JUDGMENT;  
DENYING COA**

Before the Court is Defendant's Motion to Alter or Amend Judgment Fed. R. Civ. P. 59(e), ECF No. 396. The motion was heard without oral argument. Defendant is proceeding *pro se*, and the United States is represented by David Herzog.

Defendant asks the Court to alter or amend its Order denying his § 2255 Motion. Generally, motions for reconsideration are disfavored. *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). They should not be granted, absent highly unusual circumstances, unless the Court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law. *Id.*

Defendant asserts the Court erred in five ways: (1) in determining that Defendant had already raised his actual innocence claim on direct appeal; (2) in determining that Defendant's appellant counsel was not ineffective for conceding that Plaintiff filmed a minor engaging in sexually explicit conduct; (3) in determining that Defendant's trial counsel was not ineffective for failing to file motions to dismiss the indictment or for acquittal; (4) in determining that Defendant's appellate counsel was not ineffective for

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COA ~ 1**

1 failing to raise the actual innocence claim that Plaintiff currently raises; and (5) in failing  
2 to determine if testimony was materially false.

3 Defendant has not shown the Court committed clear error. Nor has he shown the  
4 existence of newly discovered evidence or that there was an intervening change in the  
5 controlling law. Defendant made these same arguments before the Court and simply  
6 disagrees with the Court's conclusions, which is not a proper basis for bringing a motion  
7 for reconsideration.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. Defendant's Motion to Alter or Amend Judgment Fed. R. Civ. P. 59(e), ECF  
10 No. 396, is **DENIED**.

11 2. Defendant's Motion for Discovery Under Rule 6(b), ECF No. 390, is **DENIED**,  
12 as moot.

13 3. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this  
14 decision and the decision denying Defendant's § 2555 Motion could not be taken in good  
15 faith and there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. §  
16 2253(c); Fed. R. App. P. 22(b). A certificate of appealability is therefore **DENIED**.

17 **IT IS HEREBY ORDERED.** The District Court Executive is directed to file this  
18 Order and provide copies to Defendant and counsel.

19 **DATED** this 27th day of August 2024.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive, flowing style.

25 Stanley A. Bastian  
26 Chief United States District Judge  
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